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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/784,475

02/23/2004

Antonio J. Vargas

3924-0185

1734

7590

12/21/2004

John C. Hilton  
McCormick, Paulding & Huber, LLP  
185 Asylum Street, City Place II  
Hartford, CT 06103

EXAMINER

ESTRADA, ANGEL R

ART UNIT

PAPER NUMBER

2831

DATE MAILED: 12/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/784,475

Applicant(s)

VARGAS ET AL.

Examiner

Angel R. Estrada

Art Unit

2831

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☒ Claim(s) 5 and 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to because in Figure 4 the reference numbers 16b and 16v do not have an indicated line or arrow that shown which part of the figure those numbers represent. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

2. Claims 1-6 are objected to because of the following informalities

Claim 1 line 3, "the generally parallel sidewalls of the C-shaped base", lacks antecedent basis.

Claim 1 line 9, change "at least one electrical device" for --said at least one electrical device--.

Claim 1 line 9-10, change "electrical device. Said device bracket" to --electrical device, said device bracket--. The claim includes a period and a second capital letter, see MPEP 608.1 (m).

Claim 1 line 15, "said rearwardly bent flanges", lacks antecedent basis.

Claim 2 line 2, "said rearwardly bent flanges", lacks antecedent basis.

Claim 3 line 3, "said rearwardly bent flanges", lacks antecedent basis.

Claim 5 lines 2-3, "said in turn marginal edge portions", lacks antecedent basis.

Claim 5 lines 3-4, change "said divider bar" to --said bar--.

Claim 5 line 5-6, "the space between the underside of the cover plate and the forward edge of said raceway base divider", lacks antecedent basis.

Claim 6 line 3, "the raceway base inturned marginal edges", lacks antecedent basis.

Claim 6 line 5-6, "said inturned marginal edges ", lacks antecedent basis.

Claim 4 is included because of its dependency.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Handler et al (US 5,879,185, hereinafter Handler).

Regarding claim 1, Handler discloses a two piece metal raceway assembly (see figure 11) of the type having an elongated base (12) formed into a C-shaped cross section (see figures 1 and 2) defining an open side with in turned flanges (21) that are angled with respect to the generally parallel sidewalls of the C-shaped base (see figure 2), and elongated cover segments (38) having longitudinally extending rearwardly projecting flanges for assembly with the base flanges so that the cover segments (38) are of substantially the same width as the base (column 3 lines 49-57), the improvement comprising a metal device bracket (40 or see figure 6) for placement between spaced raceway cover segments to provide support for at least one electrical device (85), said device bracket (40) being formed from a flat steel blank having at least one opening (32, 34 or see figure 6) for receiving said at least one electrical device (85, see figure 1), said device bracket (40, see figure 6) including rearwardly bent end portions (67) for abutting the spaced raceway cover segments (38), and said rearwardly bent end portions (67) further including angled outer ends of J-shape (69, see figure 3) to be received between the in turned flanges (21) of the raceway base (see figure 2), whereby the device bracket (40) can be assembled with the raceway base as a result of deforming the base sidewalls so as to receive said J-shaped end portions of said rearwardly bent flanges (see figure 2 or column 4 lines 30-36).

Regarding claim 2, Handler discloses the combination wherein said device bracket (40) has a generally flat portion intermediate said rearwardly bent flanges (67) adapted to lie in a plane which is substantially the same as the plane defined by the flat raceway cover segments (38, see figures 1, 2 or 6).

Note: it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. In re. Hutchison, 69 USPQ 138.

Regarding claim 3, Handler discloses the combination wherein said at least one opening (32, 34 or see figure 6) is formed at least in part by a bar (75) defined by said device bracket (40); said bar (75) oriented generally perpendicular said rearwardly bent flanges of said device bracket (see figure 2).

Regarding claim 4, Handler discloses the combination wherein said device bracket (40) further defines a second opening (34) defined in part by said bar (75), and wherein said bar (75) is provided midway between said in turned flanges (21) or said raceway base so as to be aligned with a divider (30) conventionally supported in said raceway base for defining separated wireways (see figure 2).

#### ***Allowable Subject Matter***

4. Claims 5 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance: The primary reasons for the indication of the allowability of claims 5 and 6 are:

Regarding claim 5, the prior art does not teach or fairly suggest in combination with the other claimed limitation of a cover plate having rearwardly projecting flanges receivable between said in turn marginal edge portions of said raceway base without interference with said device bracket, said divider bar having a width when offset to be aligned with said divider in said raceway base so as to occupy a substantial portion of the space between the underside of said cover plate and the forward edge of said raceway base divider.

Regarding claim 6, the prior art does not teach or fairly suggest in combination with the other claimed limitation of said device bracket has inwardly spaced top and bottom edges to define slots between the device bracket and the raceway base intumed marginal edges, and a cover plate having inwardly formed flanges received in said slots, and said flanges found for resiliently deforming said raceway base sidewalls to secure said cover plate between said intumed marginal edges of said raceway base.

These limitations were found in claims 5 and 6, and are neither disclosed nor taught by the prior art of record, alone or in combination.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. De la Borbolla (US 6,664,467), Parks (US 4,017,137), Holliday (US 5,732,747), Trautwein (US 4,723,580), Sutton (US 6,150,610), Dola et al (US 4,952,163), Ewer et al (US 6,344,611), Pawson et al (US 6,323,421) and Hemingway et al (US 6,380,486) disclose a raceway for cables

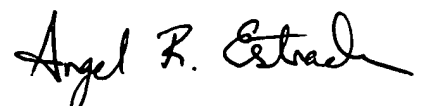
6. Any inquiry concerning this communication should be directed to Angel R. Estrada at telephone number (571) 272-1973. The Examiner can normally be reached on Monday-Friday (8:30 -5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on (571) 272-2800 Ext: 31. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

December 15, 2004

  
Angel R. Estrada  
Patent Examiner  
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